



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 26, 2005

Ms. Karen Rabon
Assistant Attorney General
Public Information Coordinator
Office of the Attorney General
P.O. Box 12548
Austin, Texas 78711-2548

OR2005-03546

Dear Ms. Rabon:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 223001.

The Office of the Attorney General (the "OAG") received a request for a named person's application to the Crime Victim Compensation Fund and records of any receipt of such funds. The OAG has released the amount of compensation awarded but claims that the remaining information is excepted from disclosure under sections 552.101 and 552.132 of the Government Code. We have considered your claimed exceptions to disclosure and have reviewed the submitted information. We also considered the requestor's comments. *See* Gov't Code § 552.304.

Section 552.132 of the Government Code provides in pertinent part as follows:

- (a) In this section, "crime victim" means a victim under Subchapter B, Chapter 56, Code of Criminal Procedure, who has filed an application for compensation under that subchapter.
- (b) A crime victim may elect whether to allow public access to information held by the crime victim's compensation division of the attorney general's office that relates to:
 - (1) the name, social security number, address, or telephone number of the crime victim; or

(2) any other information the disclosure of which would identify or tend to identify the crime victim.

(c) An election under Subsection (b) must be:

(1) made in writing on a form developed by the attorney general for that purpose and signed by the crime victim; and

(2) filed with the crime victims' compensation division before the third anniversary of the date that the crime victim filed the application for compensation.

Gov't Code § 552.132. When the crime victim is awarded compensation, section 552.132(e) requires the release of the crime victim's name and the amount of compensation awarded only. *Id.* § 552.132(e). Thus, the OAG must release the name of the victim who has received compensation. However, section 552.132(b) still permits the victim to elect to withhold other victim identifying information. Here, the applicant, who is different from the victim, elected to withhold her identifying information from disclosure under section 552.132(b). You have not submitted information showing the victim's election to withhold identifying information. Pursuant to section 552.132(c)(2), a victim is afforded three years from the date of filing the application for compensation to make the election. Since the necessary three years have not elapsed, we conclude that the victim's identifying information is protected from disclosure.

The requestor argues that privacy rights protected under section 552.132 may be waived. Section 552.132 expressly provides when a victim's identifying information must be withheld. It mandates withholding the information when a victim elects to deny access to the information and during the three-year period for election. Here, the victim's three-year period for election has not expired.

In most cases, the OAG would only be allowed to withhold the victim's identifying information from public disclosure. In this instance, however, because the victim's identity will be released, withholding only the identifying information would not effectuate the purpose of the statute. Accordingly, we agree that the OAG must withhold the remaining information under section 552.132 of the Government Code. Because section 552.132 is dispositive, we do address the OAG's other arguments.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by

filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

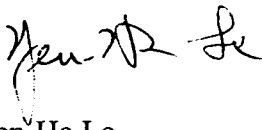
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Tex. Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink, appearing to read 'Yen-Ha Le', is written over a horizontal line.

Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/sdk

Ref: ID# 223001

Enc: Submitted documents

c: Ms. Molly K. Lopez & Mr. Andrew Z. Schreck
Henslee Fowler Hepworth & Schwartz LLP
3200 S.W. Freeway, Suite 1200
Houston, Texas 77027
(w/o enclosures)